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EXAMINER

RECEK, JASON D

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/665,905
Filing Date: September 15, 2003
Appellant(s): VANDEWALLE ET AL.

Weiwei Y. Stiltner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 10th 2010 appealing from the Office action mailed November 25th 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:
Claims 1-9 and 29 are currently pending and rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

The rejection of claims 14-28 and 30-31 is withdrawn in response to the cancellation of these claims.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Sun Microsystems, Inc. "Java Distributed Object Model", February 10, 1997, pp.

1-22

6,557,032

Jones et al.

4-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-7 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Microsystems, Inc. [Java Distributed Object Model (JDOM)], February 10, 1997, pages 1-22 in view of Jones et al. U.S. 6,557,032 B1 and Dievendorff et al. US 6,425,017 B1.

Regarding claim 1, JDOM discloses “first and second object oriented virtual machines running on counterpart first and second computers” as Java Virtual Machines on different hosts (Pg. 5), “a communication path connection between said computers” as a transport layer (Pg. 17, 20), “a run-time environment” as Java, “generating a local object at the client machine operable as a proxy to a remote object resident at the server machine” as a client using a stub object to interact with a remote object (Pg. 10) and more specifically a Remote Method Invocation system that consists of client-side

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proxies (Pg. 16), “referencing the local object by an application executing at the client machine” as an application layer (Pg. 16, and Figure on Pg. 17), “causing the local object to marshal parameters” as marshalling arguments (Pg. 18), “sending a process level call request by direct method invocation to the run-time environment of the server machine” as initiating or invoking a call to the remote object (Pg. 18), “server machine’s run time environment [...] causing the parameters in the request to become unmarshaled” as a skeleton for a remote object which is a server-side entity that unmarshals arguments (Pg. 18), “said remote object to be executed” as implementing the remote object (Pg. 18) and possibly executing in separate threads (Pg. 21), “replying by marshaling the results of the execution, and sending a process level return to the client machine” as marshaling the return value of the call onto the marshal stream (Pg. 18, 19), “responsive to said reply [...] unmarshaling the results” as client-side unmarshaling the return value or exception (Pg. 18).

JDOM does not explicitly disclose “said server machine residing in a smart device; and said client machine having access to the smart device via a smart device reader” however this is taught by Jones as servers that perform using smart cards (col. 3 ln. 16-26) and a user interface that contains a smart card reader (col. 3 ln. 50-58, Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify JDOM with the use of smart cards as taught by Jones for the purpose of increasing the capabilities of the system. Jones suggests using smart cards

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for such a purpose (col. 1 ln. 23-35). Moreover, smart cards are well known in the art and yield predictable results. Both inventions relate to the same field and one of ordinary skill in the art would realize that smart cards can be used to improve existing inventions.

The combination of JDOM and Jones does not explicitly disclose “based upon interface definition of a remote object resident at the server machine” however this is taught by Dievendorff as generating a local object based on an interface definition at a server (col. 2 ln. 1-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of JDOM and Jones to include the teachings of Dievendorff. JDOM discloses generating objects for RMI, Dievendorff simply explicitly teaches this is done using an interface definition of a server. This would have been obvious since the remote object is generated for use with the server.

Regarding claim 2, JDOM discloses “wherein plural process call level requests and replies are generated in an alternating manner” as a system in which the client calls the server then the server replies (Pg. 18).

Regarding claim 3, JDOM discloses “wherein the local object when operating as a proxy at the client machine and the run-time environment when operating at the server machine perform respectively as stubs” as a Remote Method Invocation system that uses stubs (Pg. 2, 10, 16-18).

Regarding claim 6, it is a computer product claim that corresponds to the method of claim 1, it is therefore rejected for similar reasons.

Regarding claim 7, JDOM and Jones do not explicitly disclose "communication protocols specified according to International Standards Organization specification 7816-4" however this would have been obvious to one of ordinary skill in the art at the time of the invention. Due to the nature of the protocol (an international standard) it is well known and yields predictable results. Thus it would have been obvious to use this protocol in combination with the inventions of JDOM and Jones.

Regarding claim 29, JDOM does not explicitly disclose "the smart device comprises a smart card" however Jones teaches the use of a smart card (col. 2 ln. 59).

Claims 4-5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JDOM and Jones in view Applicant admitted Prior Art (APA) and in further view of Dievendorff et al. US 6,425,017 B1.

Claim 4 corresponds to the method of claim 1 which is disclosed by JDOM, Jones and Dievendorff. Claim 4 further recites "said communication path being operable under a process for originating and sending byte level messages", JDOM does

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not disclose byte level messages however APA does teach processing methods and messages exclusively in the form of byte level strings (Pg. 5 ln 5-8).

It would have been obvious to one of ordinary skill in the art at the time of the invention that the communication mechanism of JDOM could have been implemented using byte level messages. The motivation for doing so would be to communicate with programs that have already defined APDU's (Pg. 5 ln 5-8).

Regarding claim 5, JDOM discloses "wherein [...] the local object is an interface description" as a client proxy applet (Pg. 27-28). JDOM does not disclose "wherein the remote object is an applet" however the APA teaches Server Applets (Pg. 5, ln. 16-18).

It would have been obvious to combine JDOM with server applets. The motivation for doing so would be to listen to the client.

Regarding claims 8-9, JDOM and Jones do not explicitly disclose "obtains access to the smart device via a command application program data unit" or "said reply is formatted into an application program data unit response" however the APA teaches that commands and responses from the card are done via application program data units (specification pg. 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use APDUs to communicate with the smart device in light of the APA.

(10) Response to Argument

2. Claims 1-3, 6, 7 and 29

Applicant's argument (pg. 8-10) that Jones does not disclose "said server machine residing in a smart device; and said client machine having access to the smart device via a smart device reader" as recited by claim 1 is not persuasive. As previously discussed in the Advisory Action dated 4/14/10, the term "smart device" as used in the claims is not defined by the specification. Throughout applicant's arguments (see pg. 9-10) applicant asserts that Jones does not teach a server on a "smart card". The claim however does not require a server residing on a "smart card" and therefore applicant is arguing features not in the claim. Since the term "smart device" is not defined by the specification the term should be interpreted under the broadest reasonable interpretation in light of the specification. One of ordinary skill in the art at the time of the invention may have considered a smart card a type of smart device, but certainly the term "device" is broader than "card" and therefore cannot be limited to a card as suggested by applicant. The specification (paragraph 9) does suggest that a "smart card" is any open computing platform. Therefore as long as Jones discloses a server on an open computing platform it teaches a server residing in a smart device as recited by the claim since the "smart device" is broader than a "smart card" under the broadest reasonable interpretation.

Jones teaches (col. 3 ln. 16-26) that a computing platform includes a server and a smart card. Jones further discloses a terminal with a smart card and a smart card

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reader (col. 3 ln. 26-34) and using objects to perform transactions (col. 3 ln. 40-45).

Thus Jones teaches a server residing in a computing platform (e.g. smart device) and a client (e.g. terminal) having access to the smart device via a card reader. Therefore, Jones discloses the claim limitations in question.

Applicant's argument (pg. 11) that a server that is remote from a smart card does not have much resemblance to smart card based virtual machines is not persuasive. As discussed above, the claim does not recite any "smart card" and therefore applicant is again arguing features not in the claim. Furthermore, Jones was not relied upon for teaching a virtual machine. The rejection clearly relied upon JDOM for teaching virtual machines (see JDOM pg. 5). Similarly, the assertion (pg. 11) that Jones does not require a "server reader" is not persuasive because this is not a feature of the claim.

Applicant's argument (pg. 12) that Dievendorff does not remedy the deficiencies of JDOM and Jones has been considered but is not persuasive. Applicant has not asserted that Dievendorff is deficient for the portion of the claim it was relied upon for teaching. It is respectfully submitted that since Jones teaches the portion of the claim it was relied upon for (i.e. said server machine residing in a smart device ...), that it is irrelevant at this time whether Dievendorff also discloses this limitation.

3. Claims 4, 5, 8 and 9

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Applicant's argument that APA does not teach the limitation that Jones was cited for is not persuasive. As discussed above, Jones discloses a server residing on a smart device and therefore it is unnecessary for the APA to also teach this limitation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jason Recek/

Examiner, Art Unit 2442

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451

Conferees:

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